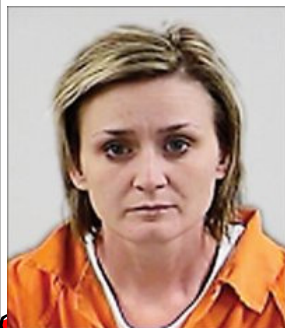


Beulah Nicole "Nikki" Sumner



- Warren Co., KY teacher arrested on 1/28/10.
- Charged with 3 counts of Sexual Abuse, 1st Degree, a Class D felony.
- Charges stem from allegations that she had an ongoing consensual sexual relationship with one of her 17-year-old students.
- Communicated with student through texting, phone, and in person. Sumner provided the phone to the student.
- Sumner said they only "made out"; student said they had sexual relationship.

Kenneth Shadoan



- Paris High School (Paris, KY) teacher sentenced to 7 years in prison, followed by lifetime of supervised release. Pleaded guilty in November 2009.
- Allegedly received pictures of a 17-year-old boy in exchange for grades. Pictures allegedly portrayed a sex performance by a minor.
- Arrested for possession of child pornography.
- Pleaded guilty on possessing one or more matters that contained visual depictions of minors engaged in sexually explicit conduct.
- Required to surrender his computer and associated software.

Timothy Lands



- Bullitt Central High School (Bullitt Co., KY) teacher arrested in January 2010.
- Allegedly had inappropriate sexual contact with a 16-year-old girl at Bullitt Central.
- Investigators have allegedly confiscated text messages and e-mails between the two that contained graphic content.

Angela Taylor



- Radcliff Middle School (Hardin Co., KY) teacher indicted in September 2009.
- She and her boyfriend charged with 230 counts involving the possession and distribution of child pornography.
- Case is still pending.

Nicole Howell



- Dayton High School teacher (Campbell Co., KY) was found not guilty in October 2009.
- Charged with sexual abuse on allegations that she had a sexual relationship with a 16-year-old male student.
- Howell admitted she exchanged text messages with the student, but that the messages were innocent.

Creth Boyd

- Boyd County middle school teacher indicted in November 2009.
- Allegations that he sent sexually-oriented text messages to a 14-year-old student.
- Reportedly faces a felony charge of unlawful use of electronic means to induce a minor to engage in sexual activities.
- Jury trial set for May 2010 and if convicted, Boyd could spend up to 5 years in prison.

Kimberly Fryman



- Bourbon County alternative school teacher was found not guilty in February 2010.
- Accused of having sexual relationship with 16-year-old male student.
- One issue at trial was hundreds of text messages between Fryman and her accuser.
- Fryman denied the messages were sexual in nature.
- Police were not able to obtain the content of the messages.



Sexting

- Harris Poll shows up to 9% of 13-year-old girls admit they have sent nude pictures of themselves on cell phones.
- A WiredSafety poll found that 44% of boys in co-ed high schools had seen at least one naked picture of a female classmate.



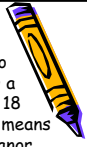
Kentucky HB 143

- Kentucky House Committee passed House Bill 143.
- If signed into law, this bill would set a \$100 fine and community service for anyone under 18 caught "sexting."
- The bill found unanimous support among lawmakers in the judiciary committee.



Kentucky HB 143

- This bill would create a new section of KRS Chapter 531 to prohibit a person under 18 years of age from transmitting a nude image of himself or herself or another person under 18 years of age to another person by computer or electronic means as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction; prohibit requiring registration as sex offender; create new section of KRS Chapter 531 to prohibit possession of a nude image of a person under 18 years of age as a violation for the first offense and a Class B misdemeanor for each subsequent offense; provide for juvenile court jurisdiction for person under 18 at time of commission of offense and District Court jurisdiction for persons over 18; prohibit requiring registration as sex offender.



Bothell High School - Washington State



- Parents of two Bothell High School cheerleaders sued the Northshore School District.
- Alleged that school officials erred when they suspended the two girls from the team after nude photos of them circulated throughout the student body via text message.



Bothell High School - Washington State



- School officials learned of the photos in August 2008 after receiving copies from an unnamed source.
- One girl was suspended from the team for 30 days; the other was suspended from the team for the entire school year.
- The case was settled in July 2009.



Jesse Logan



- Cincinnati area 18-year-old high school student.
- Forwarded nude images of herself to a boyfriend at his request.
- After they broke up, the boyfriend forwarded the photos to others and they spread through her high school.
- Logan tried to tackle the issue head-on, going on a television news program and urging other teens not to repeat her mistake.
- Students called her "porn queen" at school, dumped drinks on her and kicked her out of graduation parties.
- Two months later, her mother found her hanging in her bedroom.



Hope Witsell



- 13-year-old middle school student in Sundance, Florida.
- Hanged herself after a topless photo of herself that she sent to a boy spread through the middle school and high school.
- Students called her a "whore" and a "slut."
- School learned of photos and suspended Hope for first week of school after summer break.



Hope Witsell




- Hope was pressured by another group of boys into providing another topless photo of herself at a national FFA convention.
- Hope met with school counselors, who noticed cuts on her legs.
- They had her sign a "no-harm" contract, but did not inform her parents.
- Her parents claim in a lawsuit the school never told them how "at risk" Hope was.



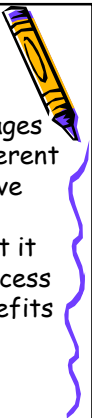



Standard of Liability





Davis v. Monroe County Board of Education, 526 U.S. 629 (1999)

- *Holding:* Districts will be "liable in damages only where they are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school."

Patterson v. Hudson Area Schools
551 F.3d 438 (6th Cir. 2009)

- *Holding:* Genuine issue of material fact existed as to whether district was deliberately indifferent to student-on-student sexual harassment of plaintiffs' son.

Gebser v. Lago Vista Indep. Sch. Dist.,
118 S. Ct. 1989 (1998)

- *Holding*: "We conclude that damages may not be recovered...unless an official of the school district who at a minimum has authority to institute corrective measures on the district's behalf has actual notice of, and is deliberately indifferent to, the teacher's misconduct."



Fayette County Board of Education v.
Maner, 2009 WL 1423966 (Ky.App. 2009)

- \$3.7 million verdict plus costs and attorneys' fees awarded to former student. Plaintiff alleged sexual abuse by several teachers and a guidance counselor occurred in middle and high school in the 1970's. Plaintiff's mother complained to superintendent of possible sexual relationship of Plaintiff with teachers, but superintendent did not notify social services. Note: Motion for Discretionary Review is pending with the Kentucky Supreme Court.




J.M. v. Avoyelles Parish Sch. Bd., 7 So. 3d
105 (La. App. 3d Cir. 2009).

- Preschool female students were touched inappropriately by male students during recess. The parents of the students sued the school board for negligence. The Louisiana Court of Appeals held that the school board breached its duty when it failed to conduct sexual harassment training, which was required by established school policy. Violations of established school policy are breaches of reasonable supervision of a school's students.






Policy requires annual training on reporting and investigating



Policy
03.162

Certified Personnel –
Harassment/Discrimination
Policy



PERSONNEL
- CERTIFIED PERSONNEL -

03.162

Harassment/Discrimination

DEFINITION
Harassment/Discrimination of employees is unlawful behavior based on the race, color, national origin, age, religion, sex or disability of an employee involving intimidation by threats of or actual physical violence, the creation, by whatever means, of a climate of hostility or intimidation, or the use of language, conduct, or symbols in such manner as to be commonly understood to convey hatred or prejudice.

PROHIBITION
Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be restricted by persons of the same or the opposite sex.)
District staff shall provide for a prompt and equitable resolution of complaints concerning

GUIDELINES
Employees who believe they have been a victim of an act of harassment/discrimination or who have observed students or other employees being victimized shall, as soon as reasonably practicable, inform their Principal or immediate supervisor who shall provide a form for the employee to complete and then immediately notify the Superintendent and/or the Program Coordinator, as appropriate. Without a report being made to the Principal or immediate supervisor, Superintendent or Program Coordinator, the District shall not be deemed to have received a complaint of harassment/discrimination.

enforcement or governmental agency.
The Superintendent/designee may take interim measures to protect complainants during the investigation.
2. A process to identify and implement, within three (3) working days of the submission of the written investigative report, methods to correct and prevent recurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
3. Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
4. Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

Page 1 of 3

Policy
03.162

Certified Personnel –
Harassment/Discrimination

PERSONNEL
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PROHIBITION
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The Superintendent shall provide for the following:

- Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) working days of submission of the original written complaint. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency.
The Superintendent/designee may take interim measures to protect complainants during the investigation.
- A process to identify and implement, within three (3) working days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.
- Annual training explaining prohibited behaviors and the necessity for prompt reporting of alleged harassment/discrimination; and
- Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.

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	PERSONNEL 03.162 (CONTINUED)
<u>Harassment/Discrimination</u>	
PROHIBITED CONDUCT Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:	
<ol style="list-style-type: none"> Derogatory nicknames, slurs, demeaning stories, jokes, or pictures relating to any of the protected categories listed in the definition of harassment/discrimination contained in this policy; Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors; Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct; Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories; Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and Destroying or damaging an individual's property based on any of the protected categories. 	

Policy 03.162 Certified Personnel – Harassment/Discrimination Policy	PERSONNEL 03.162 (CONTINUED)
<u>Harassment/Discrimination</u>	
PROHIBITED CONDUCT Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:	
<ol style="list-style-type: none"> Derogatory nicknames, slurs, demeaning stories, jokes, or pictures relating to any of the protected categories listed in the definition of harassment/discrimination contained in this policy; Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors; Causing an employee to believe that he or she must submit to unwelcome sexual conduct in order to maintain employment or that a personnel decision will be based on whether or not the employee submits to unwelcome sexual conduct; Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories; Seeking to involve individuals with disabilities in antisocial, dangerous or criminal activity where they, because of disability, are unable to comprehend fully or consent to the activity; and Destroying or damaging an individual's property based on any of the protected categories. 	
CONSEQUENCES District employees involved in the investigation of complaints shall respect, as much as possible, the privacy and integrity of all parties involved.	
APPEAL Upon the completion of the investigation and correction of the conditions leading to the harassment/discrimination, any party may appeal in writing any part of the findings and corrective actions to the Superintendent.	
<i>If a supervisor staff member is an official, refer to the harassment/discrimination policy.</i>	
RETALIATION PROHIBITED No one shall retaliate against an employee or student because s/he files a written grievance, assists or participates in an investigation, proceeding, or hearing regarding the charge of harassment/discrimination of an individual or because s/he has opposed language or conduct that violates this policy. Upon the resolution of allegations, the Superintendent shall take steps to protect employees and students against retaliation.	

Policy 09.42811 Students – Harassment/Discrimination	STUDENTS 09.42811
<u>Harassment/Discrimination</u>	
DEFINITION Harassment/Discrimination is unlawful behavior based on race, color, national origin, age, religion, sex or disability that is sufficiently severe, pervasive, or objectively offensive that it adversely affects a student's education or creates a hostile or abusive educational environment. The provision in this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by Policy 09.426, or where it does not violate provisions of Policy 09.422.	
PROHIBITION Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors in the school who...	
GUIDELINES Students who believe they have been a victim of an act of harassment/discrimination or who have observed other students being victimized shall, as soon as reasonably practicable, inform their Principal, who shall provide a form for the student to complete and then immediately notify the Superintendent and/or the Program Coordinator, as appropriate. Employees who observe prohibited behaviors or with whom students share a complaint shall notify the Principal or their immediate supervisor, who shall immediately forward the information to the Superintendent.	
<ol style="list-style-type: none"> Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) school days of submission of the original written complaint. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency. The Superintendent/designee may take interim measures to protect complainants during the investigation. A process to identify and implement, within three (3) school days of the submission of the written investigative report, methods to correct and prevent recurrences of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report. 	
Page 1 of 3	

Policy 09.42811 Students - Harassment/Discrimination	<p>STUDENTS</p> <p>Harassment/Discrimination</p> <p>09.42811</p> <p>Definition</p> <p>Harassment/Discrimination is unlawful behavior based on race, color, national origin, age, religion, sex, or disability that is sufficiently severe, pervasive, or objectively offensive that it adversely affects a student's education or creates a hostile or abusive educational environment. The provision in this policy shall not be interpreted as applying to speech otherwise protected under the state or federal constitutions where the speech does not otherwise materially or substantially disrupt the educational process, as defined by Policy 09.426, or where it does not violate provisions of Policy 09.422.</p> <p>Prohibition</p> <p>Harassment/Discrimination is prohibited at all times on school property and off school grounds during school-sponsored activities. This prohibition also applies to visitors to the school who may come into contact with employees and students. (Acts of harassment/discrimination based on sex may be committed by persons of the same or the opposite sex.)</p> <p>District staff shall provide for a prompt and equitable resolution of complaints concerning harassment/discrimination.</p> <p>Disciplinary Action</p> <p>Students who engage in harassment/discrimination of an employee or another student on the basis of any of the items mentioned above shall be subject to disciplinary action, including but not limited to suspension and expulsion.</p>
	<p>The Superintendent shall provide for the following:</p> <ol style="list-style-type: none"> Investigation of allegations of harassment/discrimination to commence as soon as circumstances allow, but not later than three (3) school days of submission of the original written complaint. A written report of all findings of the investigation shall be completed within thirty (30) calendar days, unless additional time is necessary due to the matter being investigated by a law enforcement or governmental agency. The Superintendent/designee may take interim measures to protect complainants during the investigation. A process to identify and implement, within three (3) school days of the submission of the written investigative report, methods to correct and prevent reoccurrence of the harassment/discrimination. If corrective action is not required, an explanation shall be included in the report.

Policy	<p>STUDENTS</p> <p>Harassment/Discrimination</p> <p>09.42811 (CONTINUED)</p>
	<ol style="list-style-type: none"> Age-appropriate training during the first month of school to include an explanation of prohibited behavior and the necessity for prompt reporting of alleged harassment/discrimination; and Development of alternate methods of filing complaints for individuals with disabilities and others who may need accommodation.



In circumstances also involving suspected child abuse, additional notification shall be required by law. (See Policy 09.227.)

Prohibited Conduct

Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:

- Derogatory nicknames, slurs, demeaning stories, jokes, or pictures relating to any of the protected categories listed in the definition of harassment/discrimination contained in this policy;
- Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors;
- Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student submits to unwelcome sexual conduct;
- Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories;
- Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; and
- Destroying or damaging an individual's property based on any of the protected categories.

Consentment/Refusal

District employees involved in the investigation of complaints shall respect, as much as possible, the privacy and integrity of both victims and persons accused of violations.

Page 2 of 3

Policy	<p>STUDENTS</p> <p>Harassment/Discrimination</p> <p>09.42811 (CONTINUED)</p>
	<p>PROHIBITED CONDUCT</p> <p>Depending on the circumstances and facts of the situation, and within the definition of harassment/discrimination contained in this policy, examples of conduct and/or actions that could be considered a violation of this policy include, but are not limited to:</p> <ol style="list-style-type: none"> Derogatory nicknames, slurs, demeaning stories, jokes, or pictures relating to any of the protected categories listed in the definition of harassment/discrimination contained in this policy; Unwanted touching, sexual advances, requests for sexual favors, and spreading sexual rumors; Causing a student to believe that he or she must submit to unwelcome sexual conduct in order to participate in a school program or activity or that an educational decision will be based on whether or not the student submits to unwelcome sexual conduct; Implied or overt threats of physical violence or acts of aggression or assault based on any of the protected categories; Seeking to involve students with disabilities in antisocial, dangerous or criminal activity where the students, because of disability, are unable to comprehend fully or consent to the activity; and Destroying or damaging an individual's property based on any of the protected categories.

Conduct Prompting an Investigation

- Conduct must be investigated when a formal complaint is filed.
- Conduct must also be investigated when it:
 - Is observed, even in the absence of a complaint;
 - Is reported anonymously;
 - Is reported by someone other than the alleged victim.



- Conduct must also be investigated when it (cont.):
 - Is reported by someone who wants no one to find out;
 - Is reported by someone who wants no action taken; is reported to the supervisor outside working hours and/or off school property;
 - Is reported by an applicant or temporary worker (even if employed by an agency);



- Conduct must also be investigated when it (cont.):

- Has occurred outside working hours and/or off school property, but is affecting the working environment;
- Does not involve any witnesses;
- Involves conduct that the supervisor sees as trivial or insignificant;
- Is reported by someone whom the supervisor sees as a "chronic complainer."
- Involves someone who intimidates and/or threatens the supervisor.



How to Investigate

- Take the complaint seriously.
- Ask for - but do not require - a written statement.
- Provide assurance of confidentiality and nonretaliation.
- Get answers to: "Who, What, When, Where and Why."
- Investigate promptly.



How to Investigate (cont.)

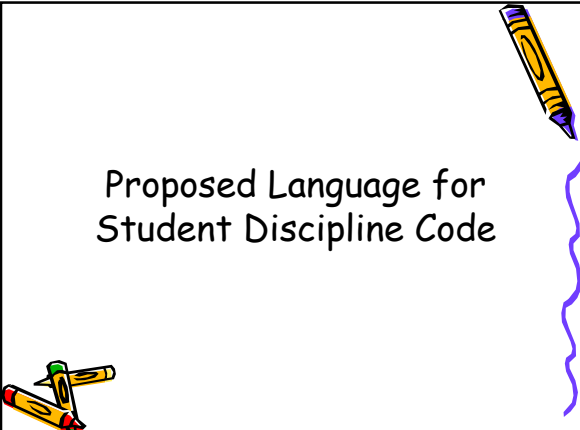
- Interview the complainant.
 - Interview the accused.
 - Interview witnesses.
 - Evaluate the results of investigation.
 - Make a decision based upon the facts.
 - Inform the parties of the results of the investigation.
- Be aware of FERPA issues.



How to Investigate (cont.)

- Take corrective action if justified by the results of the investigation.
- Monitor results.





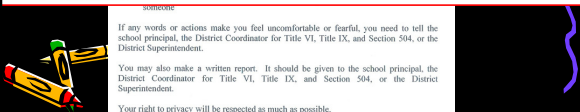
Proposed Language for Student Discipline Code

Complaint Procedure for Discrimination, Harassment and Bullying

Everyone in the _____ School District has a right to feel respected and safe. Consequently, the _____ School District prohibits discrimination and harassment because of sex, race, color, national origin, disability, religion, or age. Bullying is also prohibited.

A harasser may be a student or an adult. Harassment may include, but not be limited to, the following when related to sex, race, color, national origin, disability, religion, or age:

- name calling
- pulling on clothing
- graffiti
- notes or cartoons
- unwelcome touching of a person or clothing
- offensive or graphic posters or book covers; or
- violent acts



If any words or actions make you feel uncomfortable or fearful, you need to tell the school principal, the District Coordinator for Title VI, Title IX, and Section 504, or the District Superintendent.

You may also make a written report. It should be given to the school principal, the District Coordinator for Title VI, Title IX, and Section 504, or the District Superintendent.

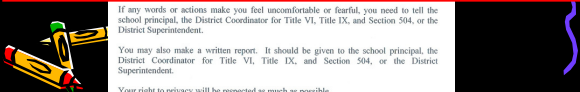
Your right to privacy will be respected as much as possible.

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Bullying is also a form of harassment and occurs when someone keeps hurting, frightening, threatening, or leaving someone out on purpose. Examples of bullying include:

- Hurting someone physically by hitting, kicking, tripping or pushing
- Stealing or damaging another person's things
- Ganging up on someone
- Teasing someone in a hurtful way
- Using put-downs, such as insulting someone's race or making fun of someone for being a boy or girl
- Spreading rumors about someone
- Leaving someone out on purpose or trying to get other students not to play with someone



If any words or actions make you feel uncomfortable or fearful, you need to tell the school principal, the District Coordinator for Title VI, Title IX, and Section 504, or the District Superintendent.

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You may also make a written report. It should be given to the school principal, the District Coordinator for Title VI, Title IX, and Section 504, or the District Superintendent.

Your right to privacy will be respected as much as possible.

We take seriously all reports of discrimination, harassment, and bullying and will take all appropriate action to investigate such claims, to eliminate such conduct, and to discipline any persons found to have engaged in such conduct.

The School District will also take action if anyone tries to intimidate you or take action to harm you because you made such a report.

This is a summary of the School District's policy against discrimination, harassment, and bullying. A complete copy of the policy is available at the principal's office upon request.

The School District's Coordinator for Title VI, Title IX, and Section 504 is:

[Insert Name]
[Insert Address]
[Insert Phone Number]
